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11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF ARIZONA

14 United States of America,

15 Plaintiff,

16 vs.

17 James B. Panther,

18 Defendant.

19 NO. CR-19-00448-PHX-DLR-2

20 **MOTION TO MODIFY RELEASE
21 CONDITIONS**

22 Pursuant to 18 U.S.C. § 3142, Defendant respectfully requests that the Court modify
23 the conditions of his release in order to allow travel throughout the United States for his
new position as National Sales Manager of a salon product distributor.

24 In April 2019, Judge Michael S. Berg entered an Order in the Southern District of
25 California granting Defendant release subject to certain conditions, including that he not
26 travel outside Central and Southern California, except for travel to and from the District of
27 Arizona for criminal proceedings. Docket No. 15. Defendant now moves to modify the
28 travel condition to allow him to travel as required for his job.

29 Tracee Plowell, Assistant Chief of the Fraud Section for the United States
30 Department of Justice, has authorized the undersigned to convey to the Court that she has
31 no objection to the instant request. Similarly, Defendant's Pretrial Services Officer raises
32 no objection and requests only that Defendant provide advance notice of each trip in the
33 form of an itinerary.

1 In crafting release conditions, the Court must ensure that the conditions imposed are
 2 the “least restrictive” conditions that will “reasonably assure the appearance of the person
 3 as required and the safety of any other person and the community.” 18 U.S.C. § 3142(c)(B).
 4 Once a judge enacts the release conditions, under section 3142(g), a “district court has the
 5 authority to approve the modification of pretrial release conditions mindful of the factors
 6 set forth in 18 U.S.C. 3142(g).” *United States v. Smith*, No. 12-CR-1298-PHX-GMS, 2012
 7 U.S. Dist. LEXIS 124187 at *7 (D. Ariz. Aug. 31, 2012). The four factors that a court must
 8 consider are:

9 (1) The nature and circumstances of the offense charged, including whether
 10 the offense is a crime of violence . . .; (2) the weight of the evidence against
 11 the person; (3) the history and characteristics of the person; and (4) the nature
 12 and seriousness of the danger to any person or the community that would be
 13 posed by the person’s release.”

14 18 U.S.C. § 3142(g).

15 The weight afforded to each of these factors is within the Court’s discretion, but the
 16 Court must analyze the factors with the ultimate goal of crafting the least restrictive
 17 conditions necessary. *Smith*, 2012 U.S. Dist. LEXIS 124187 at *8 (D. Ariz. Aug. 31, 2012).

18 Based on the factors of § 1342(g), Defendant’s appearance at court proceedings
 19 could be reasonably assured through less stringent travel restrictions than those imposed
 20 by Judge Berg. His alleged offense was non-violent and he poses no danger to anyone. And
 21 in examining the “the person’s character, physical and mental condition, family ties,
 22 employment, financial resources, length of residence in the community, [and] community
 23 ties” as required by § 1342(g)(3), the Court should note that Defendant has close ties with
 24 his family and his community. Defendant has lived in the San Diego area nearly his entire
 25 life, where he and his wife now raise their two young children.

26 In order to continue providing financially for himself and his family, Defendant
 27 respectfully requests that the Court modify his current release conditions to allow work-
 28 related travel throughout the United States.

29 // /

30 // /

1 RESPECTFULLY SUBMITTED this 1st day of November, 2019.

2 BALLARD SPAHR LLP

3 By: s/ Mark Kokanovich

4 Mark Kokanovich

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7 Attorneys for Defendant James B. Panther

8

9 **CERTIFICATE OF SERVICE**

10

11 I certify that on the 1st day November, 2019, I electronically transmitted the
12 foregoing document to the U.S. District Court for the District of Arizona Clerk's Office
13 using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all
14 CM/ECF registrants.

15

16 s/ Sarah Gennett

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